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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking into the Review
of the California High Cost Fund B Program.

R.06-06-028

**REPLY COMMENTS OF
SUREWEST TELEPHONE (U 1015 C)
ON ASSIGNED COMMISSIONER'S RULING ADDRESSING PHASE II ISSUES**

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I. INTRODUCTION.

Pursuant to Assigned Commissioner's Ruling ("ACR") dated October 5, 2007, as modified by administrative law judge ruling issued on October 10, 2007, SureWest Telephone ("SureWest") provides the following consolidated reply comments on the Phase II issues pertaining to review of the California High Cost Fund-B ("CHCF-B").

As discussed in its opening comments, SureWest is not immediately impacted by the development of an auction process or the updating of a cost proxy model. For that reason, its opening comments focused on "Section 3" issues. Upon review of opening comments, SureWest finds several issues raised in the context of "Section 2" issues, in particular implementation details pertaining to a possible reverse auction of high-cost support, that merit SureWest's input. Before addressing auction implementation issues, however, SureWest addresses opening comments that are nothing more than an effort to overturn prior Commission rulings.

II. THE COMMISSION SHOULD NOT REVERSE ITS PRIOR ORDERS IN THIS AND OTHER DOCKETS.

Several commenting parties used the platform of Phase II opening comments to urge the Commission to make decisions that would effectively reverse prior decisions that are either directly or indirectly related to this proceeding. The Commission should reject any invitation to retreat from policy determinations made in the last year.¹

¹ See, e.g., Rule 6.3(f), Rules of Practice and Procedure (prohibiting a petition for rulemaking on an issue that the Commission has acted on in the preceding 12 months.).

For example, Sprint Nextel contends that the Commission should discontinue CHCF-B support as of January 1, 2009.² However, the Commission recently resolved conclusively in Phase I of this proceeding that the CHCF-B is necessary and will continue. *See* D.07-09-020 (September 6, 2007). Phase II should be used to address reforms to the CHCF-B and not to continue the debate over the merits of whether to continue the CHCF-B.

Similarly, the Division of Ratepayer Advocates ("DRA") takes the opportunity presented by Phase II comments to continue arguing in favor of a permanent cap on basic rates, an argument it lost not only in this proceeding, but also in the Uniform Regulatory Framework rulemaking.³ DRA also contends that the Commission should undertake further analysis regarding affordability. Once again, these issues have been conclusively resolved by the Commission, and there is no compelling reason to re-open them in Phase II of this proceeding. Instead, the Commission should focus on the task at hand and continue its efforts to improve its systems for ensuring as many Californians as possible living in high-cost areas have access to basic telephone service.

III. REPLIES ON ISSUES RAISED IN CONNECTION WITH AUCTION MECHANISM.

A. Appropriate Service Area.

To the extent there is any dispute regarding the service area upon which to base the award of CHCF-B support, SureWest supports the continued use of the Census Block Group

² *See* Comments of Sprint Nextel, November 9, 2007, p. 4 ("The Commission should discontinue all subsidies for networks, companies and services . . . as of January 1, 2009.").

³ *See* Comments of the Division of Ratepayer Advocates, November 9, 2007, p. 24 (contending the Commission should apply an "interim" two-part rate cap at either SureWest's current rate or 150% of the lowest rate for basic service charged by that carrier).

("CBG"). For more than a decade, the Commission has relied on the CBG as the building block for the CHCF-B, and it has worked well. SureWest is also concerned that the primary alternative to the CBG, the ILEC wire center, is too large of a service area and might hamper the ability of competitive entrants, and in particular wireline competitors, to participate in the auction process. As The Utility Reform Network ("TURN") noted in its opening comments, designating smaller areas for the basis of support will encourage entry.⁴ In addition, basing the distribution of support on the wire center has the potential to favor the incumbent provider which has deployed facilities consistent with that wire center, to the detriment of a new entrant which may have deployed facilities without regard to the incumbent's somewhat arbitrary wire center boundaries.

On a related matter, both AT&T and Verizon recommend that auction participants should be permitted to bid on multiple CBGs as part of a single bid.⁵ SureWest is very concerned about this proposal and believes that combinatorial bidding should only be allowed when no other competitor is bidding on a CBG within the combinatorial bidding request. By allowing combinatorial bidding to take precedent over individual CBG bidding, the Commission would be permitting large carriers to average rates in a manner that could allow them to underbid the amount of support needed in higher-cost areas by overbidding in lower cost areas where they may not have any competitive bidder. As TURN noted in its opening comments, the structuring of auctions requires the Commission to prioritize competing priorities, one of which is encouraging entry of competitors. Instead of allowing large carriers to underbid in the short term and thus freeze out potential entrants, the Commission should pursue a strategy that encourages

⁴ See Comments of The Utility Reform Network, November 9, 2007, p. 27.

⁵ See Comments of AT&T, November 9, 2007, p. 11; Comments of Verizon, November 9, 2007, p. 6.

as many auction participants as possible and thereby ensure that the auction succeeds in scaling universal service support to reflect the amount needed to serve a particular high-cost area.

B. Duration of COLR Award.

SureWest agrees with TURN that the lowest bidder in the auction should be granted a five-year period in which to serve as the COLR.⁶ In structuring its auctions, the Commission should encourage as many new entrants as possible to participate, a direction that will help ensure the success of the auctions. Limiting the COLR designation to a five-year term will give competitors the opportunity to continue building networks with a reasonable prospect of challenging for the COLR designation within a timeframe that encourages investment sooner rather than later.

C. Technological and Regulatory Neutrality.

Many commenting parties urge the Commission to adopt auction rules that place no limit on the technology used to provide basic service.⁷ SureWest does not conceptually oppose this position. SureWest believes that the most cost-efficient technology to provide the desired level of basic service should be the recipient of CHCF-B support.

However, at the same time, the Commission must ensure that potential COLRs operate under the same level of regulation. Regulation imposes cost, and if one carrier faces a higher level of regulation than another carrier, then regulatory cost, and not cost of technology, may dictate the carrier that provides the lowest bid in a CHCF-B auction. To ensure this does not occur, the Commission must make it absolutely clear under what regulatory provisions a COLR

⁶ See Comments of The Utility Reform Network, November 9, 2007, p. 24.

⁷ See Comments of Sprint Nextel, November 9, 2007, pp. 2-3; Comments of The California Cable & Telecommunications Association, p. 4; Comments of OmniPoint Communications, Inc., dba T-Mobile, November 9, 2007, pp. 5-7.

will operate, and those provisions must not vary depending upon whether a potential COLR is a wireline carrier or a wireless carrier, for example.

IV. CONCLUSION.

As discussed above, the Commission should not re-open issues previously resolved. Specifically, there is no reason to revisit whether to grant URF ILECs pricing flexibility for basic service or to reconsider whether \$36 per month is an affordable rate for basic service. In addition, the Commission's auction rules should allocate support for a five-year term based on bids. While technologically-neutral auction rules would be appropriate, the Commission must also ensure that regulatory neutrality also exists for entities that bid on COLR status.

Dated this 19th day of November, 2007, at San Francisco, California.

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CERTIFICATE OF SERVICE

I, Noel Gielegem, declare:

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is COOPER, WHITE & COOPER LLP, 201 California Street, 17th Floor, San Francisco, CA 94111.

On November 19, 2007, I served the REPLY COMMENTS OF SUREWEST TELEPHONE (U 1015 C) ON ASSIGNED COMMISSIONER'S RULING ADDRESSING PHASE II ISSUES by sending via e-mail a searchable Adobe Acrobat PDF copy of this document to the parties on the attached service list, all of whom provided e-mail addresses.

Hard copies were also mailed to ALJ Pulsifer and Assigned Commissioner Chong's advisor Lynn Carew.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 19, 2007, at San Francisco, California.



Noel Gielegem

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